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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/025,570	12/26/2001	Masaru Matsuura	K0103-US/OH	8366
466	7590	03/16/2004	EXAMINER	
YOUNG & THOMPSON			MADSEN, ROBERT A	
745 SOUTH 23RD STREET 2ND FLOOR				
ARLINGTON, VA 22202			ART UNIT	PAPER NUMBER

1761

DATE MAILED: 03/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/025,570

Applicant(s)

MATSUURA ET AL.

Examiner

Robert Madsen

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 December 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 and 9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. The Amendment filed December 16, 2003 has been entered. Claim 9 has been added. Claims 1-7 and 9 remain pending in the application.
2. The rejections of claims 1 and 2 rejected under 35 U.S.C. 102(b) as being anticipated by Matsuura (US 451433), claims 1 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Takeoka et al. (US 5190787), and claims 1 and 5 under 35 U.S.C. 102(b) as being anticipated by Sengoku et al. (US 4874630) in the office action mailed October 7, 2003 are hereby withdrawn.
3. Claims 3 and 4 rejected under 35 U.S.C. 103(a) as being unpatentable over Matsuura (US 451433) in the office action mailed October 7, 2003 is hereby withdrawn.
4. Claims 5 and 6 rejected under 35 U.S.C. 102(b) as being anticipated by Matsuura (US 451433), further in view of Sato (JP 03-195467 A) in the office action mailed October 7, 2003 is hereby withdrawn.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Onishi (JP59175857).
7. Onishi teaches adding calcium salt coagulant to a vessel, adding soya milk to the vessel, sealing and heating the vessel (Note the egg/wakame seaweed with bean curd in second example of both Derwent and JPO Abstracts).
8. Claims 1,3,5 are rejected under 35 U.S.C. 102(b) as being anticipated by Abe (US 4147811).
9. Abe teaches the method of making a packed tofu by applying an aqueous solution *containing* coagulated soy milk *and* bittern solution, which is conventionally known to contain 1ppm of magnesium and/or calcium as recited in claim 3, filling the container with soy milk, sealing the container, and heating the container as recited in claim 1 (Column 9, line 25 to Column 10, line 5, Column 11, lines 1-46). Abe further teaches the containers are filled such that the curd occupies the entire volume of the container and the curd will not be displaced or broken during transportation (Column 1, lines 55-61). Such "displacement" inside the containers would inherently be caused by some sort of impact, as recited in claim 5.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Abe (US 4147811) as applied to claims 1,3,5 above in view of Matsuura (US 451433).
12. Matsuura teaches a solution of magnesium or calcium salt or a 10% ethanol solution (i.e. a coagulant solution) may be used for coagulating soybean milk in sealed container and heating the container (Column 4, lines 40-46, Column 5, lines 18-28, and Example 2).
13. Therefore, it would have been obvious to modify Abe and use ethanol as a coagulant since one would have been substituting one conventional coagulant for another for the same purpose: forming a soybean curd in a sealed container.
14. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Abe (US 4147811) as applied to claims 1,3,5 above.
15. Abe teaches bittern, but is silent in teaching sea water. However it is notoriously well known in the art that bittern obtained from removal of sodium chloride from a brine solution, including sea water. Therefore, to select use any particular water source for obtaining bittern would have been an obvious matter of choice depending on the availability of sea water as well as if one wanted to make "natural" product claims.
16. Claim 5,6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Onishi (JP59175857) as applied to claim 1 above further in view of Hartz (US 3812210)

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17. Onishi teaches heating the container to coagulate and subsequently sterilizing the sealed containers but is silent in teaching dropping the containers (See Derwent Abstract)

18. Hartz teaches a sterilizing device wherein the sealed food containers are "dropped" into a treatment bath. Hartz teaches this method offers the advantage of avoiding costly hand loading onto a the conventional rack and the damaging handling of a conventional conveyor system (Column 1, lines 9-22, Column 2, lines 5-22, Column 2, lines 52-Column 3, line 6, Column 3, lines 39-42).

19. Therefore it would have been obvious to modify Onishi and include a dropping step after the initial heating/coagulating step, since Onishi teaches a sterilizing step follows the heating/coagulating step and Hartz provides a method of sterilizing that offers as an alternative to conventional costly and damaging methods sterilizing that involves "dropping" the containers into the sterilizing unit. One would have been substituting one conventional sterilizing method for another.

20. Claims 7 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Onishi (JP59175857) as applied to claim 1 above further in view of Hartz (US 3812210)

21. Onishi teaches adding calcium salt coagulant to a vessel, adding soya milk to the vessel, sealing and heating the vessel (Note the egg/wakame seaweed with bean curd in second example of both Derwent and JPO Abstracts). Onishi teaches sterilizing the sealed containers after heating but is silent in teaching dropping the containers (See Derwent Abstract)Hartz teaches a sterilizing device wherein the sealed food containers

are "dropped" into a treatment bath. Hartz teaches this method offers the advantage of avoiding costly hand loading onto a the conventional rack and the damaging handling of a conventional conveyor system (Column 1, lines 9-22, Column 2, lines 5-22, Column 2, lines 52-Column 3, line 6, Column 3, lines 39-42).

22. Therefore it would have been obvious to modify Onishi and include a dropping step after the initial heating/coagulating step, since Onishi teaches a sterilizing step follows the heating/coagulating step and Hartz provides a method of sterilizing that offers as an alternative to conventional costly and damaging methods sterilizing that involves "dropping" the containers into the sterilizing unit. One would have been substituting one conventional sterilizing method for another.

Response to Arguments

23. Applicant's arguments with respect to the amended have been considered but are moot in view of the new ground(s) of rejection since the art relied on in the previous office action did not teach the currently recited *sequential* steps.

Conclusion

24. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Nagasawa (JP 61282048) teaches adding bittern to a molding box first, followed by soybean milk. Kusaka et al. (JP 58071860A) teaches preparing easily removable bean curd.

25. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


26. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

27. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Madsen whose telephone number is (571) 272-1402. The examiner can normally be reached on 7:00AM-3:30PM M-F.

28. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (571) 272-1398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

29. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Robert Madsen
Examiner
Art Unit 1761



MILTON I. CANO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700